

REMARKS

Claims 1-12 are pending in this application. By this Amendment, claims 1 and 3-12 are amended. No new matter is added. Reconsideration of the application is respectfully requested.

Claims 1, 3, 7, 9 and 10 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,968,680 (Wolfe); claims 4 and 8 are rejected under 35 U.S.C. §103(a) over Wolfe; and claims 5, 6, 11 and 12 are rejected under 35 U.S.C. §103(a) over Wolfe in view of U.S. Patent Application Publication No. 2006/0019139 (Matsui).

Regarding the rejections under U.S.C. §103 over Wolfe in view of Matsui, Matsui does not qualify as prior art. Matsui is a national stage of a PCT application that was filed on August 27, 2003, but was not published in English. Matsui is therefore not prior art under 35 U.S.C. §102(e) because it is only available as of its January 2006 publication date, which is well after Applicants' filing date. See MPEP §2136.03. Therefore, the rejection under 35 U.S.C. §103 over Wolfe in view of Matsui is improper.

Regarding the rejection of claim 1, Wolfe fails to disclose or suggest "a compressor configured to compress the turbine exhaust gas discharged from the turbine to increase the pressure of the turbine exhaust gas to the atmospheric pressure and to discharge a compressor exhaust gas at the atmospheric pressure," as recited in claim 1.

The Office Action alleges that the limitation "compressing an exhaust gas discharged from the turbine to increase the pressure of the exhaust gas" is an intended use, and maintains that the manner in which a claimed apparatus is intended to be used does not differentiate the claimed apparatus from prior art. See Office Action, page 3. The Office Action further maintains that so long as Wolfe teaches the basic component including a combustor, turbine, compressor and heat exchanger that perform the instant functions, the limitations of the claims are satisfied. See Office Action, page 9.

However, claims 1 and 9 require that the compressor is configured to compress exhaust gas discharged from the turbine. That is, the exhaust gas discharged from the turbine is supplied to the compressor. Such a configuration is not an "intended use" as alleged by the Office Action but instead defines the interrelationship between system components, i.e., the turbine and the compressor, and constitute structure of the hybrid system.

The compressor 46 in Wolfe takes in air from the atmosphere, and does not take in the exhaust gas from the turbine. As can be seen in Fig. 1, an arrow designated as ambient air points to intake of the compressor 46. Further, Wolfe states "ambient air entering the compressor 46" in col. 3, lines 17 and 18. Additionally, as can be seen in Fig. 1, the exhaust from turbine 26 is discharged to ambient, not the compressor. Thus, claim 1 is patentable over the applied references.

Furthermore, present application requires "a compressor configured to discharge compressor exhaust gas at the atmospheric pressure" and "an atmospheric-pressure, high-temperature fuel cell to which an atmospheric pressure air and an atmospheric pressure fuel are supplied," as recited in claim 1. This constitutes another structural difference between Wolfe and the present application. In Wolfe, the gas flow between the compressor 46 and the fuel cell 14 is a high-pressure circulation sealed from the atmosphere. See in Fig. 1, the pressurized air flows from the compressor 46, go through recuperator 48, heat exchangers 58, 56, and is supplied to SOFC fuel cell 14.

Claim 9 recites similar features to those referred to in connection with claim 1.

For at least the above reasons, claims 1 and 9 are patentable over Wolfe. Claims 2-8 and 10-12 depend from one of claim 1 and 9, and, therefore also are patentable over Wolfe for at least the same reasons as claim 1, as well as for the additional features they recite.

For the foregoing reasons, withdrawal of the rejections is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,


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Date: April 25, 2008

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